

July 1, 2002

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON PRELIMINARY PLAT APPLICATION

SUBJECT: Department of Development and Environmental Services File No. **L01P0014**

HERITAGE VIEW DIVISION 3

Preliminary Plat Application

Location: Between Southeast 44th Way and Southeast 45th Street, approximately
300 feet West of 164th Avenue Southeast

Applicant: Seascope Homes, *represented by*
Jon Nelson
Peterson Consulting Engineers, Inc.
4030 Lake Washington Boulevard Northeast, Suite 200
Kirkland, WA 98033
Telephone: (425) 827-5874
Facsimile: (425) 822-7216

King County: Department of Development and Environmental Services
Land Use Services Division, *represented by*
Lanny Henoch, Current Planning Section
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7168
Facsimile: (206) 296-6613

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:

Approved subject to conditions

Department's Final Recommendation:

Approved subject to conditions

Examiner's Decision:

Approved subject to conditions

EXAMINER PROCEEDINGS:

Hearing Opened:

June 27, 2002

Hearing Closed:

June 27, 2002

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Drainage
- Steep Slopes

SUMMARY: The preliminary plat application is approved, subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Seascope Homes
P. O. Box 5844
Bellevue, WA 98006
Phone: (206) 972-9950

Engineer: Peterson Consulting Engineers
4030 Lake Washington Blvd. NE, Suite 200
Kirkland, WA 98033
Phone: (425) 827-5874

STR: Northeast ¼ of the southeast ¼ of Section 14, Township 24, Range 5

Location: Lying between SE 44th Way and SE 45th St., approx. 300 feet west of 164th Ave. SE.

Zoning: R-6
Acreage: 3.22
Number of Lots: 11
Density: 3.53 dwelling units per acre
Lot Size: Ranges from 4,883 to 9,079 square feet
Proposed Use: Detached single-family residences
Sewage Disposal: City of Bellevue
Water Supply: City of Bellevue
Fire District: King County Fire District No. 10
School District: Issaquah School District No. 411
Complete Application
(Vesting) Date: June 5, 2001

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the June 27, 2002 public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.
3. Seascope Homes has submitted a preliminary plat application to subdivide 3.22 acres into 11 lots for single family residential development. The property is located on a wooded hillside south of Lake Sammamish between Southeast 44th Way and Southeast 45th Street. This is an area of active

residential subdivision development, with the plat of Lakepointe recently constructed to the east and Crestmont to the south.

4. Drainage from the plat flows eventually to Lake Sammamish and is subject both to the sensitive lake protection menu and level 2 flow control. The Applicant plans to construct a large water-quality vault near the property's northwest corner which will incorporate sand filter treatment. Due to the size of this structure and its exposed hillside location, SEPA conditions have been imposed on its construction requiring visual landscaping.
5. An intermittent class 3 stream within a relatively steep ravine runs within the eastern half of the property. This feature will be placed within a sensitive areas tract. Further geotechnical review will be required to establish with precision the location and extent of the steep slope building setbacks.

CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat application for Heritage View Division 3, as revised and received on May 8, 2002, is APPROVED, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services (DDES).
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards, established and adopted by Ordinance No. 11187.
6. The applicant must obtain the approval of the King County Fire Protection Engineer, to demonstrate compliance with the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in KCC 9.04 and the 1998 King County Surface Water Design Manual (KCSWDM). Compliance may result in

reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and KCSWDM must also be satisfied during engineering and final review.

- a. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."
 - d. The stormwater design for the subject plat shall meet the Level 2 Flow Control standard and the Sensitive Lake Protection water quality menu of the KCSWDM.
8. A downstream drainage conveyance improvement shall be provided at the SE 44th Way/164th Way SE curve, as follows. The existing ditch and ½-round culvert on the south side of the roadway, upstream of Tributary 0160, shall be replaced with a new tightline pipe and catch basins, connecting to the existing cross culvert. (Note that this condition is intended to duplicate the downstream drainage improvement required in Condition 7e for the preliminary plat of Heritage View Div. II, File No. L00P0016.) This improvement shall be shown on the engineering plans for the subject plat and constructed by the applicant, unless already constructed by the Heritage View Div. II applicant or by others.
 9. The following road improvements are required to be constructed, and shall be consistent with the 1993 King County Road Standards (KCRS):
 - a. Road A shall be improved to the urban minor access street standard. Modifications to the Road A design are permitted, as described in approved Road Variance Application L01V0105.
 - b. SE 45th St. along the south boundary of the site shall be improved to the urban subaccess street standard. A sidewalk shall be provided on the north side of SE 45th St. extending from Road A to the existing sidewalk to the west. A sidewalk is not required along the frontage of Lot 1.
 - c. Modifications to the above road conditions may be considered per the variance provisions in KCRS Sec. 1.04.
 10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council, prior to final plat recording.
 11. The applicant or subsequent owner shall comply with KCC 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid

shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

12. Lots within this subdivision are subject to KCC 21A.43 and Ordinance 14258 which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval 50% of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
13. There shall be no direct vehicular access to or from SE 44th Way from the lots in the subject plat which abut this street. A note to this effect shall appear on the final plat and engineering plans.
14.
 - a. Ten feet of additional right-of-way for SE 45th St. shall be dedicated along the south property line of the subject property, to create a total of 40 feet of right-of-way for this road.
 - b. Access easements currently exist across the southerly 20 feet of the subject property. All such easements (except those granted to utility purveyors for the construction and maintenance of utilities) shall be vacated prior to the recording of the subject plat. As an alternative, the portion of such easements which are not included in right-of-way dedicated for SE 45th Street shall be placed in separate tracts. The tracts shall be owned and maintained by the homeowners association for the subject plat.
15. A planter island, if proposed within the cul-de-sac bulb for Road A, shall be maintained by the abutting lot owners or the homeowners association. If the island is proposed, a note indicating who is responsible for maintenance of the island shall be stated on the face of the final plat.
16. The following note shall be shown on the final engineering plans and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

17. The proposed subdivision shall comply with the sensitive areas requirements in KCC 21A.24. Permanent survey marking and signs, as specified in KCC 21A.24.160, shall be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
18. Preliminary plat review has identified the following specific sensitive area requirements which apply to this project. All other applicable requirements for sensitive areas shall be addressed by the applicant.
 - a. A Class 3 stream traverses Tract B. A 25-foot-wide buffer shall be provided from this stream, except at the north end of the site (adjacent to Lot 6) where a 50-foot-wide buffer shall be provided to comply with the requirements found in KCC 21A.24.360A9 concerning riparian slopes.
 - b. As an alternative to the stream buffer requirements noted above, if approved by LUSD buffer averaging may be utilized subject to compliance with KCC 21A.24.360B. In this regard, LUSD may require the submittal of a buffer averaging plan. Bonding or other financial guarantees may also be required by LUSD to assure the installation and survival of any required plantings.
 - c. Determine the top, toe, and sides of steep slope hazard areas (KCC 21A.06.1230) by field survey.
 - d. Tract B (including the above-noted stream and stream buffers) and steep slopes on the site shall be placed in a Sensitive Areas Tract on the final plat map, except as provided by Condition 18e below. (Note that in order to include all existing steep slopes, the eastern boundary of Lots 5 and 6 must be modified.) A building setback line 15 feet from the sensitive area tract shall be shown on the adjacent lots in the subject plat.
 - e. Steep slopes on the site which are less than 20 feet in vertical relief may be excluded from the Tract B sensitive areas tract, subject to the approval of the Land Use Services Division and compliance with KCC 21A.24.3105.
 - f. The applicant shall delineate all erosion hazard areas on the site on the final engineering plans. (Erosion hazard areas are defined in KCC 21A.06.415.) The delineation of such areas shall be approved by an LUSD senior geologist. The requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities. The seasonal restrictions shall be clearly shown on the engineering plans.
19. Street trees shall be included in the design of all road improvements for Road A and SE 45th St., and shall comply with KCRS Sec. 5.03.
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless LUSD determines that trees should not be located in the street right-of-way.

- c. If LUSD determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
- d. The trees shall be owned and maintained by the abutting lot owners or the homeowners' association or other workable organization, unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by LUSD if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by LUSD prior to engineering plan approval.
- g. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after LUSD has completed a second inspection and determined that the trees have been kept healthy and thriving.

A \$538 landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

- 20. An existing well is located on the site. This well shall be capped consistent with applicable King County Health Department regulations.
- 21. The existing buildings located on the site shall be removed. All required permits for the demolition of these buildings shall be secured.
- 22. Suitable on-site recreation space and improvements shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.). The following conditions shall also be met:
 - a. A recreation space plan shall be submitted for review and approval by LUSD, with the submittal of the engineering plans. The recreation plan shall show all recreation tract improvements, dimensions, area calculations, finished grades, equipment, equipment specs, and landscaping. The approved engineering plans shall be consistent with the recreation plan.
 - b. Fencing shall be provided around the recreation area in Tract A, in appropriate locations as determined by LUSD, to prevent injuries from occurring due to the presence of steep slopes and significant grade changes in the tract. The design of the fencing shall be approved by LUSD.
 - c. The finished grade of the recreation area shall not exceed 5%, except in locations underlying play equipment and picnic facilities where the grade shall be level.
 - d. A performance bond to assure the installation of required recreation space improvements and the survival of required plantings shall be posted prior to the recording of the subject plat.

- e. Tract A shall be owned by a homeowners association for the subject plat. A note to this effect shall appear on the final plat and engineering plans. An easement shall be granted to King County and shown on the final plat and engineering plans to allow King County access to Tract A for the purpose of maintenance of the stormwater facilities.
23. A homeowners' association shall be established to the satisfaction of LUSD which provides for the ownership of Tract A, the maintenance of the recreational facilities in Tract A, and the ownership and continued maintenance of Tract B.
The following conditions have been established under SEPA authority as necessary to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with these items prior to final approval.
24. Conceptual plans have been prepared by the applicant which depict, among other things, the design for the west wall of the stormwater vault proposed to be constructed on the northwest portion of the site; a second wall which will be built between the vault and the west boundary of the site; and landscaping proposed to be placed adjacent to these walls. These plans include the *Conceptual Drainage Plan* received May 8, 2002, the *Storm Drainage and Recreation Space Plan and Sections* received May 8, 2002, and the *Preliminary Street Tree... and Recreation Space Plan* received May 8, 2002. The final engineering plans for the subject plat shall be in accordance with these conceptual plans, with respect to the afore-mentioned walls, unless modifications to the proposed design are approved by the Land Use Services Division (LUSD). The final design shall include landscaping to be placed at the foot of both walls, which will obscure and moderate views of the walls from Tax Parcel 1424059072. (It should be noted that unless the vault and lower wall proposed west of the vault are shifted on the site further east, it is likely required landscaping placed at the foot of the lower wall will have to be placed off-site, on Tax Parcel 1424059072.)
25. A landscape plan shall be prepared by the applicant and submitted to the King County Land Use Services Division (LUSD) for approval. This plan shall be prepared by a landscape architect and shall include trees or shrubbery planted in front of the walls referred to above. These trees or shrubs shall be fast growing, and achieve a height at maturity equal to at least two-thirds of the exposed wall height. If LUSD determines that a permanent irrigation system is required to assure the survival of some or all of the required plantings, such system shall be installed, and owned and maintained by a homeowners association for the subject plat. (Alternatively, this irrigation system may be owned and maintained by the owners of Tax Parcel 1424059072, with appropriate easements recorded for this purpose.) LUSD may also require the submittal of bonds or other financial guarantee to assure the installation of required landscaping, and its survival for a two year period.

ORDERED this 1st day of July, 2002.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 1st day of July, 2002, to the parties and interested persons of record:

Daniel T. Bross
16123 SE 44th Way
Issaquah WA 98027

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NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before July 15, 2002***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before July 22, 2002***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JUNE 27, 2002 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L01P0014.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Lanny Henoch and Bruce Whittaker, representing the Department; and Jon Nelson, representing the Applicant.

The following exhibits were offered and entered into the record:

- | | |
|----------------|---|
| Exhibit No. 1A | DDES/LUSD File no. L01P0014 – Main planning file |
| Exhibit No. 1B | DDES/LUSD File no. L01P0014 – Extras, SEPA file, Examiner's copies |
| Exhibit No. 2 | LUSD staff report prepared for the 6/27/02 public hearing |
| Exhibit No. 3 | SEPA Environmental Checklist, signed by the applicant's representative on 5/02/01 |
| Exhibit No. 4 | SEPA Mitigated Determination of Non-significance, issued 5/17/02 |
| Exhibit No. 5 | Affidavit of Posting signed by the Applicant, indicating that the subject property was posted with signs on 6/26/01, giving notice of the filing of the proposed plat application. |
| Exhibit No. 6 | Revised plat map set, submitted by the Applicant's representative, Peterson Consulting Engineers, Inc., on 5/08/02. The map set includes the following six sheets: 6A Preliminary Plat 6B Conceptual Drainage Plan 6C Storm Drainage and Recreation Space Plan and Sections 6D Cross Sections 6E Slopes Categories Map 6F 40% Slope Map |
| Exhibit No. 7 | Land us (Kroll) map |
| Exhibit No. 8 | King County Assessor map for the SE ¼ of Sec. 14, Township 24, Range 5 |
| Exhibit No. 9 | Preliminary Street Tree Plan and Recreation Space Plan, prepared by the applicant's landscape architect, GHA Landscape Architects, received 5/08/02 |
| Exhibit No. 10 | Topographic survey of the site, prepared by Mead Gilman & Associates, received 5/10/01 |
| Exhibit No. 11 | Letter dated 4/05/02 from Paulett Norman, Acting County Road Engineer, to Doug Tellefson, granting approval of Road Variance Application L01V0105, with attached memo to "Variance File" |
| Exhibit No. 12 | Level 1 Off-site Analysis, prepared by Peterson Consulting Engineers, dated 5/02/01 |
| Exhibit No. 13 | Geotechnical Engineering Study, prepared by Geotech Consultants, Inc., dated 8/04/00 |
| Exhibit No. 14 | Faxed letter dated 8/22/01 from Marc. R. McGinnis, P.E., Geotech Consultants, Inc., regarding steep slope setback, received 3/15/02 |
| Exhibit No. 15 | Letter dated 6/21/02 from Marc. R. McGinnis to Lanny Henoch regarding steep slope setback, received 6/24/02 |
| Exhibit No. 16 | Revised/Additional Conditions, prepared by LUSD staff |
| Exhibit No. 17 | Conceptual Drainage Plan for Heritage View Division II, received 11/30/01 |

SLS:mls

Heritage View Division 3/L01P0014 RPT